

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MANDEEP GOSAL,  
Plaintiff,

v.

SAVE MART SUPERMARKETS,  
ET AL.,  
Defendants.

No. C 16-601 CRB


**ORDER RE MOTIONS TO STRIKE  
AND DISMISS**

On calendar for Friday, January 6, 2017, are three motions in this case: (1) a motion to dismiss Defendant Zeke Lozano (dkt. 46); (2) a motion to dismiss Plaintiff Mandeep Gosal's counterclaim (dkt. 38); and (3) a motion to strike Gosal's amended answer to Defendants' counterclaim (dkt. 39). The Court finds this matter suitable for resolution without oral argument, pursuant to Civil Local Rule 7-1(b), VACATES the motion hearing currently set for January 6, 2017, SETS a status conference for the same time on January 6, 2017, and rules as follows.

The Court DENIES the motion to dismiss Lozano: the Court deems service in this case proper, rejects the suggestion that Plaintiff failed to prosecute Lozano, and holds that the sixth and seventh causes of action state a claim against Lozano. The Court GRANTS Defendants' motion to dismiss Gosal's counterclaim, as indemnification under Cal. Labor

Code § 2802 is not cognizable here, and the remaining counterclaims lack merit. The Court SEVERs and STAYS Defendants' counterclaim (dkt. 19),<sup>1</sup> and therefore also STAYS Defendants' motion to strike Gosal's amended answer to that counterclaim.

**IT IS SO ORDERED.**



Dated: December 21, 2016

CHARLES R. BREYER

UNITED STATES DISTRICT JUDGE

United States District Court  
For the Northern District of California

<sup>1</sup> The Court also STAYS any discovery related to that counterclaim.